

A.F.R.

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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION No.2075 OF 2006

PETITIONER

Ayodhya Son of Late Laxmi Prasad Pandey, Aged about 36 years, Vice President Janpad Panchayat Masturi and R/o at Post Malhar, District Bilaspur (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh,
Through : The Panchayat Social Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
2. The Collector, Bilaspur, Distt. Bilaspur (C.G.)
3. The Additional Collector, Bilaspur, Distt. Bilaspur (C.G.)
4. The Presiding Officer (Appointed U/s 28 of the Panchayat Raj Adhiniyam, 1993) Deputy Collector, Cum-Sub-Divisional Officer, Bilaspur Distt. Bilaspur (C.G.)
5. The Chief Executive Officer, Janpad Panchayat Masturi, Distt. Bilaspur (C.G.)
6. Bhagirathi, S/o Shri Khadak Singh, aged about 32 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Julahi, Post Sothi, District Bilaspur (C.G.)
7. Devendra Kumar, S/o Shri Ghumuklal, Aged about 30 years, Member of Janpad Panchayat Masturi, R/o Village-Gram, Post Bitkula, District Bilaspur (C.G.)
8. Smt. Laxmin, Wife of Shri Girijasankar, Aged about 18 years, Member of Janpad panchayat Masturi, R/o Village- Gram Post Podi, District Bilaspur (C.G.)

9. Smt. Rampayari, wife of Shri Mannulal, Aged about 30 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Podi, District Bilaspur (C.G.)
10. Shri Shashibhushan, s/o Shri Ramadhar, Aged about 33 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Sipat, District Bilaspur (C.G.)
11. Ghanshayam Prasad, S/o Shri nanduram, Aged about 33 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Pandhi, District Bilaspur (C.G.)
12. Smt. Purnima, Wife of shri Rajeshkumar, Aged about 30 years, Member of Janpad Panchayat Masturi, R/o Village-Gram paraghat, Post Jairam Nagar, District Bilaspur (C.G.)
13. Smt. Kiran, Wife of shri Santosh, Aged about 37 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Masturi, District Bilaspur (C.G.)
14. Gajendra Choudhary, S/o Shri lekham, Aged about 35 years, Member of Janpad Panchayat Masturi, R/o Village-Gram lawar, Post Masturi, District Bilaspur (C.G.)
15. Ashok Kumar, S/o Shri Agahandas, Aged about 35 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Saragawa, Post Masturi, District Bilaspur (C.G.)
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Dhangawa, Post Okhar, District Bilaspur (C.G.)

18. Smt. Lalita Bai, Wife of Shri Dwarika, Aged about 32 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Dangawa, Post Okhar, District Bilaspur (C.G.)
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20. Kedarnath, S/o Shri Dayaram, Aged about 35 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Godadeeh, District Bilaspur (C.G.)
21. Vishnukumar, S/o Shri Gangaram, Aged about 40 years Member of Janpad Panchayat Masturi, R/o Village-Gram Sarseni, Post Tikari, District Bilaspur (C.G.)
22. Smt. Pushpadevi, Wife of Shri Chandrabhan, Aged about 25 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Chilhari, Post Loharsi, District Bilaspur (C.G.)
23. Gendram, S/o Shri Salikram, Aged about 32 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Bohardeeh, Post Loharsi, District Bilaspur (C.G.)
24. Sunahar Ram, S/o Shri Taturam, Aged about 51 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Jodhara, District Bilaspur (C.G.)
25. Smt. Sunita, Wife of Shri Ramprasad, Aged about 30 years, Member of Janpad Panchayat Masturi, R/o Village-Gram Post Son, District Bilaspur (C.G.)

WRIT PETITION No.2076 OF 2006**PETITIONER**

Shankar Prasad Son of Shri Surajbali Yadav, Aged about 42 years, President Janpad Panchayat Masturi and R/o at Post Masturi, District Bilaspur (C.G.)

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Present : Shri Rajesh Pandey, learned counsel for the petitioners.
Shri Sanjay S Agrawal, learned Govt. Advocate for the State.

ORAL ORDER
(Passed on 20th April, 2006)

Since the question that arises for decision-making in both the writ petitions is identical, they are clubbed, heard together and they are being disposed of by this common order.

(2) The petitioner is the Vice President of Janpad Panchayat, Masturi for a term of five years from 2005 to 2009. It appears that the respondents Nos. 6 to 25 who are the Members of Janpad Panchayat, Masturi submitted a 'no confidence motion' to the Additional Collector, Bilaspur District, the 3rd respondent herein. The 3rd respondent taking cognizance of the said 'no confidence motion' has convened the meeting of Janpad Panchayat on 24th April, 2006. Feeling aggrieved by the above action of the 3rd respondent, this writ petition is filed.

(3) It was contended by the learned counsel for the petitioner that the 3rd respondent has no authority to convene the meeting to consider the 'no confidence motion' submitted by respondent Nos. 6 to 25. It was submitted that under Chhattisgarh Panchayat Raj Adhiniyam, 1993 (*for short "the Adhiniyam"*), only the Collector of the District has authority to convene the meeting. In support of the above contention, learned counsel would draw my attention to Notification No. 705/P/22/2003 dated 13th May, 2003 (Annexure P/6), issued by the State Government in exercise of the power conferred by the clause (xxi) of Section 2 read with sub-Section (3) of Section 93 of the Adhiniyam.

(4) Section 28 of the Adhiniyam deals with 'no confidence motion' against President or Vice President of Janpad Panchayat. Section 28

itself does not prescribe as to who is the competent authority to convene a meeting of Janpad Panchayat to consider 'no confidence motion' against President or Vice President. Sub-Section (2) of Section 28 of the Adhiniyam states that meeting to consider 'no confidence motion' shall be convened in such a manner as may be prescribed and shall be presided over by an officer of the Government as the 'Prescribed Authority'. The term "Prescribed Authority" is defined in clause (xxi) of Section 2 of the Adhiniyam which reads as follows:

(xxi) " 'Prescribed Authority' in any provision of this Act means such officer or authority as the State Government may, by notification, direct to discharge the functions of a prescribed authority under that provision. "

(5) In exercise of the powers conferred by the clause (xxi) of Section 2 read with sub-section (3) of Section 93 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and in supersession of earlier Notification No. 705/P/22/2003 dated 13-05-2003, the State Government of Chhattisgarh has directed that the officer or the Authority mentioned in column (2) of the table below shall discharge the functions of the Prescribed Authority for the purpose of Sections of the Adhiniyam mentioned in corresponding entry in column (3) thereof.

Table

Sl. No. (1)	Officer or Authority (2)	Section (3)
1.	Collector	13(4)(one) and (6)

2.	Collector	17(4)
3.	Tehsildar	17(5)
4.	Tehsildar	18(2)
5.	Tehsildar	18(3)
6.	Sub-Divisional Officer (Revenue)	19
7.	Secretary, Gram Panchayat	20(1)
8.	Sub-Divisional Officer (Revenue)	21(2)
9.	Collector	23(1)
10.	Sub-Divisional Officer (Revenue)	23(3)(one) and (5)
11.	Sub-Divisional Officer (Revenue)	25(1)
12.	Collector/Additional Collector	25(2)(two)
13.	Distt. Joint Director/Dy. Director Panchayat and Social Welfare	26
14.	Chief Executive Officer Janpad Panchayat	27(1)
15.	Collector	28(2)
16.	Collector	30(1)
17.	Collector/Additional Collector	30(3)(one), 30(5)
18.	Collector/Additional Collector	32(1)
19.	Director, Panchayat	32(2)(1)
20.	Collector/Additional Collector	33
21.	Collector	33(A)
22.	Chief Executive Officer, Zila Panchayat	34(1)
23.	Director Panchayat	35 (2)
24.	(1) For Gram Panchayat	- District Joint Director/Dy. Director, Panchayat and Social Welfare
	(2) For Janpad Panchayat	-Collector/Additional Collector
	(3) For Zila Panchayat	-Collector
25.	(1) For the Member of Gram Panchayat & Sarpanch & Up Sarpanch	-Sub-Divisional Officer (Revenue)
	(2) For the Member & President & Vice President of Janpad Panchayat	-Collector/Additional Collector
	(3) For President, Vice- President & Member of Zila Panchayat	-Collector
26.	(1) For Gram Panchayat	-Sub-Divisional Officer (Revenue)
	(2) For Janpad Panchayat	-Collector/Additional Collector

27.	(3) For Zila Panchayat Collector/Additional Collector	-Director, Panchayat	41
28.	(1) For Gram Panchayat	-Sub-Divisional Officer (Revenue)	
	(2) For Janpad Panchayat	Collector/Additional Collector	45
	(3) For Zila Panchayat	-Collector/Additional Collector	
29	(1) For Janpad Panchayat	-Collector/Additional Collector	47(2)
30.	(2) For Zila Panchayat Sub-Divisional Officer (Revenue)	-Collector	55(4)
31.	Sub-Divisional Officer (Revenue)		59
32.	(1) For Gram Panchayat	-Sub-Divisional Officer (Revenue)	
	(2) For Janpad Panchayat	-Collector/Additional Collector	61
	(3) For Zila Panchayat	-Collector	
33.	(1) For Gram Panchayat	-Collector/Additional Collector	
	(2) For Janpad Panchayat	-Collector/Additional Collector	65
	(3) For Zila Panchayat	-Collector	
34.	(1) For Gram Panchayat	-Sub Divisional Officer (Revenue)	
	(2) For Janpad Panchayat	-Collector/Additional Collector	68
	(3) For Zila Panchayat	-Collector	
35.	District Joint Director/Dy. Director Panchayat & social Welfare		69(1)
36.	(1) For Gram Panchayat	-Distt. Joint Director/Dy. Director Panchayat & Social Welfare	69(4)
	(2) For Janpad Panchayat	-Collector/Additional Collector	
	(3) For Zila Panchayat	-Collector	
37.	(1) For Gram Panchayat	-Collector/Additional Collector	
	(2) For Janpad Panchayat	Collector	70(1)
	(3) For Zila Panchayat	State Government	
38.	(1) For Gram Panchayat	-Distt. Joint Directory/ Dy. Director Panchayat & Social Welfare	
	(2) For Janpad Panchayat	-Distt. Joint Director/Dy. Director Panchayat & Social Welfare	73(2)(3)
	(3) For Zila Panchayat	- Director, Panchayat	

39.	(1) For Gram Panchayat (2) For Janpad Panchayat	-Sub-Divisional Officer -Collector/Additional Collector	79
40.	(1) For Gram Panchayat (2) For Janpad Panchayat (3) For Zila Panchayat	-Sub-Divisional Officer (Revenue) -Collector -Director, Panchayat Collector/Additional Collector	85(1)
41.	(1) For Gram Panchayat (2) For Janpad Panchayat (3) For Zila Panchayat	Director, Panchayat Director, Panchayat Director, Panchayat	86(1)(2)
42.	(1) For Gram Panchayat (2) For Janpad Panchayat (3) For Zila Panchayat	Collector/Additional Collector	87(1) & (3)(b)
43.	Collector/Additional Collector		89(1)
44.	(1) For Gram Panchayat (2) For Janpad Panchayat (3) For Zila Panchayat	Sub Divisional Officer (Revenue) Collector/Additional Collector	92(1), (2) & (3)
45.	(1) For Gram Panchayat (2) For Janpad Panchayat (3) For Zila Panchayat	Distt. Joint Director/Dy. Director Panchayat & Social Welfare Collector Director, Panchayat	96(3)
46.	(1) For Gram Panchayat (2) For Janpad Panchayat (3) For Zila Panchayat	Distt. Joint Director/Dy. Director, Panchayat & Social Welfare Collector -Director, Panchayat	100"

(6) The relevant entry for our purpose is the Entry (15). The language employed in the above notification issued by the Govt. of Chhattisgarh is plain, clear, precise and unambiguous and does not have more than one meaning as to who should be the Prescribed Authority for the purpose of exercising various powers under various Sections of the Adhiniyam. The power under sub-Section (2) of Section 28, as per the table appended to the said notification, could be exercised only by the Collector. However, it is the contention of the learned Government Advocate that in Section 16 of the Chhattisgarh Land Revenue Code, 1959, the word 'Collector' is defined, and as per

that definition the word 'Collector' includes Additional Collector and therefore, the 3rd respondent's authority to convene the meeting to consider the 'no confidence motion' could not be questioned. In support of his submission, learned Government Advocate sought to place reliance on a judgment of a learned Single Judge of Madhya Pradesh High Court in the case of **Kaushal Prasad Kashyap Vs. State of M.P. and others**¹.

(7) Having heard learned counsel for the parties, I find substance in the contention of the learned counsel for the petitioner and no merit in the submission of the learned Government Advocate. The Adhiniyam does not define the word 'Collector'. Therefore, in normal course and in the absence of Notification No. 705/P/22/2003 dated 13th May, 2003, I could have followed the definition of the word 'Collector' as defined under Section 16 of the Land Revenue Code. But, such a course is impermissible because of the Notification dated 13-05-2003 issued by the Government of Chhattisgarh in exercise of power conferred on it by clause (xxi) of Section 2 read with sub-section (3) of Section 93 of the Adhiniyam referred to above.

(8) It is well settled that while interpreting a provision of law, whether it is statutory provision or of a delegate legislation, the Court should interpret such provision in such a way as to give content and meaning to each and every word used therein, and it cannot be interpreted in a way as to render any word or expression as otiose, redundant or surplussage. A careful perusal of the Table appended to

1. 1999 (1) M.P.L.J. 455.

the Government order dated 13th May 2003 would clearly show that the rule-making authority (the Government) wherever it wanted to confer powers under various Sections concurrently on Collector as well as Additional Collector, it has done so, whereas, if it wanted to confer certain powers exclusively on Collector and other named officers of the State, it has directed accordingly. For example, the power to be exercised under Sections 23 (1), 28(2), 31, 33'A' and certain other Sections has been conferred exclusively on Collector, whereas the power to be exercised under Sections 25(2), 33, 32(1) amongst several other Sections has been conferred concurrently on Collector as well as Additional Collector. This has been consciously and deliberately done by the Government. If the Government wanted the word 'Collector' to mean Additional Collector also, there was absolutely no necessity to mention the word 'Additional Collector' in Entries 12, 17, 18, 20, 24(2), 25(2), 26(2), 27, 28(2), 29(1), 32(2), 33(1) and (2), 34(2), 36(2), 37(1), 39(2), 41(1) and 44(2), because, in that case 'Collector' would also mean 'Additional Collector'. Therefore, the power under Section 28(2) ought to have been exercised only by the Collector and not by the Additional Collector.

(9) The judgment of the Madhya Pradesh High Court cited by the learned Government Advocate is of no help to support his submission for more than one reason. That was a case where the Court was called upon to decide the question whether the Additional Collector could not have exercised the power under Section 39 (2) of Adhiniyam. The Table appended to the Notification No. 705/P/22/2003 dated 13th May, 2003, does not prescribe any Authority to exercise the power

under Section 39(2). In that view of the matter, perhaps the view taken by the Madhya Pradesh High Court might be one plausible view. I, however, hasten to state that I should not be taken to have concurred with the view taken by the learned Single Judge of the High Court of Madhya Pradesh in the above case. I leave that question open to be decided by this Court in an appropriate case. Secondly, that judgment of Madhya Pradesh High Court does not deal with a Notification of the kind similar to the one issued by the Government of Chhattisgarh dated 13th May 2003. Looking from that angle also, the ratio of that judgment could not be applied to the facts of this case. Thus, looking from any angle, it is clear that the Collector alone ought to have exercised the power under Section 28(2) of the Adhiniyam and not the Additional Collector. The initiative taken by the 3rd respondent Additional Collector is, therefore, liable to be condemned as the one without authority of law and in violation of the mandatory provisions of Section 28(2) of the Adhiniyam read with Notification No. 705/P/22/2003 dated 13th May, 2003 issued by the Government of Chhattisgarh. In the result, I allow the writ petition and quash the impugned proceedings. No costs.

Sd/-
Chief Justice